

Decision in the case 1313/2021/TE on how the European Commission dealt with a complaint that the German police and Attorney-Generalship had breached fundamental rights

Decision

Case 1313/2021/TE - Opened on 20/08/2021 - Decision on 20/08/2021 - Institution concerned European Commission (No maladministration found) |

Dear Mr X,

On 22 July 2021, you complained to the European Ombudsman about how the European Commission replied to your complaint of 22 June 2021.

In your complaint to the Commission, you argued that the police and Attorney-Generalship of Munich had violated several of your fundamental rights, as set out in the EU Treaties and in the Charter of Fundamental Rights of the EU, in relation to a police control at Munich central station.

In your complaint to the Ombudsman, you contend that the Commission wrongfully stated that your grievance falls outside the scope of EU law. You are also concerned that the Commission failed to officially acknowledge receipt of your complaint and to provide you with a registration number within the specified fifteen-day timeframe. Finally, you complain that the Commission wrongfully noted 23 June 2021 as the submission date of your complaint, although you had submitted your complaint on 22 June 2021.

After a careful analysis of all the information submitted to us, our assessment is as follows.

In its letter of 15 July 2021, the Commission informed you that it is the responsibility of the EU's Member States, in this case Germany, to maintain law and order and to safeguard internal security. Any actions of national authorities, including of police officers, remain the responsibility of the Member State concerned. As the matter you have brought to the Commission's attention does not relate to the application of European Union law, the Commission informed you that it could not intervene in your case. Therefore, the Commission directed you towards national means of redress.

In its second letter of 22 July 2021, the Commission further clarified that, as the matter you complain about falls outside the scope of EU law, it could not treat your complaint as a



complaint concerning the application of EU law. Therefore, the procedural rules set out in the Commission Communication ‘ *EU law: Better results through better application* ’, including the requirement to issue an acknowledgement of receipt of the complaint within 15 working days and to provide a registration number, are not applicable.

We understand from your complaint to the Ombudsman that you consider that the position the Commission took in its replies is not well founded. Please note that the Ombudsman would only intervene in case there is an indication that the Commission was manifestly wrong in its presentation of the facts or of law. In this case, there is no indication that the Commission misinterpreted the facts or the law relating to the matter you complained about. In particular, we consider that the Commission explained to you in a clear and comprehensive manner why it considers that the matter that you brought to its attention does not concern the application of EU law. Therefore, the national authorities are responsible for addressing the matter and the Commission cannot intervene in your case. We find that the Commission made no manifest error of assessment and its replies are reasonable.

Moreover, regarding your grievance that the Commission did not acknowledge receipt of your complaint within fifteen working days and, furthermore, that it did not assign a registration number to your complaint, please note that this requirement applies only to complaints concerning actions of Member States contrary to EU law. The Communication ‘EU law: Better results through better application’, to which you are referring, explicitly mentions that “[c]orrespondence should not be investigable as a complaint by the Commission, and should therefore not be recorded in the special register, if ... it sets out a grievance which clearly falls outside the scope of Union law”. [1]

You also consider that the Commission wrongly referred to 23 June 2021 (instead of 22 June 2021) as the submission date of your complaint. Please note that while the Commission registered your correspondence in its document management system on 23 June 2021, it still referred correctly in its letter to “ *your email of 22 June 2021* ”.

On the basis of the above, we find no maladministration by the Commission in how it dealt with your complaint. [2]

We understand you may be disappointed with this outcome but we hope you find these explanations useful.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 20/08/2021



[1] Annex to Commission Communication 'EU law: Better results through better application',
2017/C 18/02.

[2] Full information on the procedure and rights pertaining to complaints can be found at
<https://www.ombudsman.europa.eu/en/document/70707> [Link]